

November 10th, 2019

**CV 19-7049 MAUSKOPF, J
LEVY, M.J.**

DEC 03 2019

Diversity Action Complaint for Legal Malpractice

BROOKLYN OFFICE

Plaintiff, Bogdana Osipova (Moble), dual citizen of Russia and United States of America is a resident of 10157 92nd St. Queens, NY 11416 is temporary incarcerated at FSL Danbury, CT, 33 1/2 Pembroke Rd. Route 37, Danbury , CT 06811, while awaiting for her appeal to go through.

Plaintiff names Defendants as: Defendant, Kurt Kerns ESQ., Warrior Lawyer, and Kerns, Ariagno, Mank and White law firm, address of the place of business is 328 N Main, Wichita, KS 67202, email for Kurt Kerns is: kurtpkerns@aol.com There is complete diversity of citizenship between Plaintiff and the Defendant and the matter in controversy exceeds, exclusive of interests and costs, the sum of \$75,000.

Plaintiff proceeds in forma pauperis due to Plaintiff inability to pay due to detention awaiting pre-trial since September 2017 until June 2017.

Statement of the facts:

Plaintiff hires the Defendant to represent her as a criminal defense attorney at the beginning of October 2017.

The Defendant received \$20,000 as a flat fee for Plaintiff's representation.

Defendant received Plaintiff's personal HP touch screen laptop; Blackberry Classic cell phone; black Kenneth Cole backpack with a folder of original documents, external hard drive, multiple memory cards with pictures, projects and files; blue suitcase with Plaintiff's clothes.

On November 28th, 2017 during and after the meeting between Plaintiff and the Defendant at Butler County Jail in El Dorado, KS, the Plaintiff brought to the Defendant's attention that one of the female guard in that jail is intimidating and verbally harassing the Plaintiff and that Plaintiff is scared of this guard and Plaintiff also asked the Defendant to bring this issue to the Supervisor's of this jail attention so the problem could be solved and future unnecessary unconstitutional violation of Plaintiff's right's could be avoided.

It is unknown to the Plaintiff until this day if the Defendant took any action upon Plaintiff's request for help.

Trail for the criminal case for the Plaintiff was scheduled for the 12th of December 2017.

After the 28th of November, 2017 meeting between the Plaintiff and the Defendant, Plaintiff was again verbally abused by the same female guard and later physically abused and sexually harassed.

The Plaintiff filed the emergency grievance and made the Defendant aware of the incident and grievance filing.

The Defendant seized contact and became unavailable to the Plaintiff.

On December 5th, 2017 the Defendant emailed to the Plaintiff's step father Antoni Filipiuk at ajfilipiuk@gmail.com with the following message: "... with apologies you should know I had it all packed up in my car to see her Sunday and some thief Saturday night- broke into my car and stole my wallet and pistol and briefcase that had the yellow file w laptop and her phone. All her other items safe at the office. I filed a police report yesterday while sick ... My insurance will cover the costs of replacement but I can't bring her what I no longer have. Trial has been continued....Kurt." (sent from my iPhone.

Plaintiff, Plaintiff's parents, Plaintiff's new attorney's on numerous occasions requested a copy of the police report from the Defendant. No copy was provided to neither party up to this day.

On December 10-11, 2017 Plaintiff, mentally healthy pre-trial detainee was involuntary medicated with psychotropic drug Haldol (used for the people with schizophrenia) by NP at Butler County Jail without a prior hearing, court-order, psychiatrist's prescription or Plaintiff's consent.

During medical intake screening at Butler County Jail, Plaintiff made medical personal aware of her multiple allergies including medications.

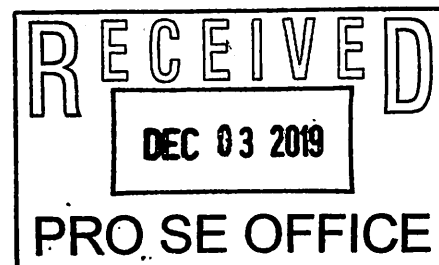
As a result of this unauthorized unlawful cruel and unusual punishment of Plaintiff, due to a retaliation against Plaintiff, because of Plaintiff filing a grievance reporting verbal, physical assaults and sexual harassment by female guard and asking for remedies, Plaintiff suffered from severe personal injury: allergic reaction that lead to semi-coma state, severe dehydration, loss of weight, grave disability.

On December 18th 2017 the Plaintiff was transported via ambulance to FMC Carswell, TX.

In January 2018 the Plaintiff was found incompetent to stand trial.

After 7.5 months of treatment Plaintiff's competency was restored in the beginning of July 2018.

The Defendant met with Plaintiff only on few occasions during Plaintiff's detention at Butler County Jail, no visits during Plaintiff's stay at Carswell, TX and one visit in August 2018 at Harvey Detention Center where Plaintiff was transferred to await



trail.

In the beginning of 2019 Defendant demanded additional payment of \$10,000 to represent the Plaintiff for the first time at the upcoming trial that was scheduled for March 2019, despite that the Defendant already received \$20,000 in October 2017 and said that the trial is covered by the fee of \$20,000.

In the beginning of March 2019 Plaintiff removed the Defendant as her attorney from her case by hiring new attorney.

To this day the Defendant did not replaced Plaintiff's lost items: laptop, cell phone, original documents, black backpack and it's contents), despite Defendant's promises to do so.

Plaintiff purchased the laptop in March 2014 and her cell phone in January 2017.

Plaintiff's third child was born in June 2014 and on the Plaintiff's laptop and cell phone that the Defendant lost due to his severe negligence and unprofessional misconduct, were pictures from March 2014-September 2017 of Plaintiff's kids, family, friends, herself, including the pictures of the Plaintiff's third child as a baby are completely lost now and are irreplaceable.

Also due to the Defendant's severe negligence, unprofessional misconduct and breach of fiduciary duty Defendant compromised Plaintiff's trial outcome in the criminal case as well as trial timeframe due to the loss of the Plaintiff's legal original documents and pictures that were Plaintiff's property and an evidence for the federal criminal case that Plaintiff entrusted to the Defendant's care.

Also the Defendant changed Plaintiff's defense strategy during Plaintiff's incompetency without prior Plaintiff's knowledge or approval.

Summarizing all the above Defendant's unprofessional misconduct, severe negligence, breach of fiduciary duty and outrageous acts caused Plaintiff, Plaintiff's parents and Plaintiff's minor kids economic loss, pain and suffering, loss of evidence for criminal case.

Plaintiff seeks compensation for economic loss, pain and suffering of \$25 000 000 (twenty five million dollars), punitive damages that Court deem appropriate from Defendants.

Plaintiff seeks punitive damages which are awarded not to compensate the victims but to "punish outrageous behavior and deter such outrageous conduct in the future".

Plaintiff's also seeks the refund of \$20,000 that the Defendant received on October 2017 due to the breach of contract, insufficient legal representation, loss of Plaintiff's property and evidence for federal criminal case.

If Plaintiff have a right for pro bono attorney, Plaintiff asks the Court to appoint an attorney for this case.

So help me God!

Respectfully submitted by,

Bogdana Osipova (Mobley).

Bogdana Osipova (Mobley)